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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re the Matter of)
)
Assessment & Collection of)
Regulatory Fees for)
Fiscal Year 1998)

MD Docket 98-36

To: The Managing Director

PETITION FOR WAIVER OF 1998 REGULATORY FEES

Thomas A. Aceituno, trustee for the bankruptcy estate of Stratcom, Ltd. and the licensee of radio broadcast stations KPCO(AM), Quincy, California, KBNF(FM), Chester, California and FM translator station K253AA, Susansville, California (the "Stations"), pursuant to Section 1.1166 of the Commission's rules, hereby requests that the Commission waive payment of 1998 regulatory fees for the Stations. Because this Petition is not accompanied by payment for the 1998 fees assessed for the Stations, Mr. Aceituno has filed simultaneously herewith a Petition to Defer Payment of the 1998 Regulatory Fees due to financial hardship as required by Section 1.1166(c) of the Commission's rules.

Section 1.1166 of the Commission's rules provides that requests for waiver of regulatory fees will be granted on a case-by-case basis, where good cause is shown and where waiver would promote the public interest. 47 C.F.R. § 1.1166. A sufficient showing of financial hardship demonstrates "good cause." *In the Matter of Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759, 12761 (1995). Evidence of bankruptcy or receivership is sufficient to establish financial hardship

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and the Commission "will waive the regulatory fees for licensees whose stations are bankrupt . . . or in receivership." *Id.* at 12762.

Based upon the foregoing standard, waiver of payment of the 1998 regulatory fees for the Stations is warranted. The Stations are currently held by Mr. Aceituno as part of the bankruptcy estate of Stratcom, Ltd., the prior licensee of the Stations. While under the ownership of Stratcom, Ltd., the stations discontinued operations in July 1997 and went silent. Stratcom, Ltd. filed a voluntary petition for bankruptcy with the U.S. Bankruptcy Court for the Eastern District of California in October 20, 1997. Subsequently, the Office of the United States Trustee appointed Mr. Aceituno as the trustee of the bankruptcy estate of Stratcom, Ltd. A copy of Mr. Aceituno's notice of appointment is attached hereto as Exhibit A. Mr. Aceituno became licensee of the Stations, with Commission consent, on April 7, 1998 and resumed broadcast operations at the stations in July of this year.

Although the stations are on the air again, the bankruptcy estate which holds the licenses for the Stations currently lacks the financial resources to pay the 1998 regulatory fees; the estate assets are at a level sufficient only to cover the basic operating expenses of the Stations.

Granting Mr. Aceituno's waiver request would promote the public interest. Mr. Aceituno has resumed operations for both stations prior to the one-year silent date on August 1, 1998. To do so, Mr. Aceituno obtained special temporary authority to operate KPCO at variance until a proof of performance study is completed and KBNF at reduced power until a new antenna could be installed. Also, since Mr. Aceituno has become the licensee of the Stations, construction of a new tower and antenna for KBNF, authorized by a construction permit issued on July 9, 1996,¹ has been initiated,

¹ As extended by BPH-980504JD.

and will soon be completed. Thus, grant of the requested waiver would enable Mr. Aceituno to continue to utilize the limited financial resources of the bankruptcy estate in keeping the Stations on the air and in compliance with the Commission's rules. Requiring payment of the regulatory fees at this time would threaten station operations.

Furthermore, in order to best serve the public interest, Mr. Aceituno has negotiated the sale and assignment of the Stations' assets and licenses to a new licensee which has the necessary financial resources to operate the Stations long-term.² Requiring payment of the 1998 regulatory fees, when the Stations' finances are limited and the sale of the Stations to a financially stable party is imminent, could "act as an impediment to the negotiations and the transfer of the station[s] to a new licensee." *See In the Matter of Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd at 12762.

² See Files Nos. BAL-980701EG, BALPH-980701EH and BALFT-980701EI.

In light of the foregoing, Mr. Aceituno respectfully requests that the Commission waive the 1998 regulatory fees for radio broadcast stations KPCO(AM), Qunicy, California, KBNF(FM), Chester, California and FM translator station K253AA, Susansville, California.

Respectfully submitted,

THOMAS A. ACEITUNO, TRUSTEE FOR THE
BANKRUPTCY ESTATE OF STRATCOM, LTD.

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September 17, 1998

His Attorneys

Exhibit A

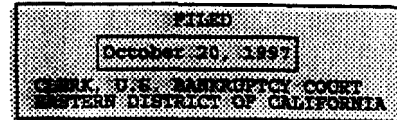
UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re

Stratcom, Ltd.

Debtor(s).

Case No. 97-36057-B-7



APPOINTMENT OF INTERIM TRUSTEE AND NOTICE OF SELECTION

Thomas A. Aceituno is hereby appointed Interim Trustee of the above-named Debtor's(s') estate and Trustee if creditors fail to elect a Trustee as provided by the Bankruptcy Code. The Interim Trustee has filed a blanket bond pursuant to Federal Rule of Bankruptcy Procedure 2010(a).

If the Interim Trustee does not notify the Office of the United States Trustee and the Court in writing of rejection of the office within five days after receipt of notice of selection, the Interim Trustee shall be deemed to have accepted the office.

Dated: October 20, 1997

Office of the United States Trustee
Region 17

Linda E. Stanley
United States Trustee

Antonia G. Darling
Assistant United States Trustee

Certificate of Service

I, Nellie Martinez-Redicks, a secretary in the law firm of Arter & Hadden LLP, hereby certify that on this day, September 17, 1998, a copy of the foregoing "Petition for Waiver of 1998 Regulatory Fees" was served on the following person by hand-delivery:

Regina Dorsey, Chief
Federal Communications Commission
Billings & Collections Branch
1919 M Street, N. W., Room 452
Washington, DC 20554


Nellie Martinez-Redicks